

## § 516.35

## 32 CFR Ch. V (7–1–14 Edition)

### § 516.35 Preparation of claims for litigation.

(a) *General.* In preparing a referral for litigation the RJA will ensure the file contains at least the following:

(1) A litigation report (See § 516.23 of this part) that demonstrates a factual basis for the claim and a theory of recovery under applicable state law. (See Fed. R. Civ. P. 11)

(2) Copies of all medical records and bills reflecting the reasonable value of the medical care furnished to the injured party, including DA Form 2631–R (Medical Care-Third Party Liability Notification), and DA Form 3154 (MSA Invoice and Receipt). These documents should be authenticated as necessary on a DA Form 4.

(3) Copies of all documents necessary to establish the value of lost or damaged property.

(b) *Transmittal letter.* The letter of transmittal referring the claim for litigation should briefly summarize the facts giving rise to the claim and the collection actions previously taken by the Army and the injured party.

#### ASSERTION OF OTHER CLAIMS

### § 516.36 Referral to Litigation Division.

(a) *General.* The majority of cases filed on behalf of the United States will fall under this subpart E. All other civil cases which cannot be resolved administratively or by direct referral to DOJ will be forwarded through channels to Litigation Division with a litigation report. (See § 516.23 of this part).

(b) *Government contractors.* It may be in the Government's best interest to authorize a Government contractor, whose contract provides for the reimbursement of necessary legal expenses, to employ private counsel to initiate legal proceedings against a third party. To obtain authorization to employ private counsel in such instances the contractor should follow the procedures in § 516.21(c) of this part.

### § 516.37 Proceedings to repossess government real property or quarters or to collect delinquent rent.

(a) *General.* U.S. Attorneys are authorized to accept a Federal agency's request for the following purposes: to

initiate an action to recover possession of real property from tenants, trespassers, and others; to enjoin trespasses on Federal property; and, to collect delinquent rentals or damages for use and occupancy of real property for amounts less than \$200,000.

(b) *Procedures.* When eviction or an action to collect delinquent rent is necessary, the SJA or legal adviser will notify General Litigation Branch, Litigation Division, of the situation. If approved by Litigation Division, the SJA or legal adviser may ask the U.S. Attorney to file suit. A copy of the complaint will be sent to Litigation Division. DOJ can take action to evict the occupants for violation of the terms of occupancy and collect delinquent rent or other charges. Once the matter has been referred to the U.S. Attorney, payments for rent should be sent to the U.S. Attorney. (See AR 210–50, chap 2.)

## Subpart F—Environmental Litigation

### § 516.38 Scope.

This subpart contains guidance, policies, and procedures applicable to all environmental and natural resources civil litigation and administrative proceedings involving missions and functions of DA, its major and subordinate commands, all installations presently or previously managed by DA, and all other sites or issues in which DA has a substantial interest. In this chapter, “litigation” includes civil administrative proceedings.

### § 516.39 Duties and procedures.

(a) *Water rights.* Environmental Law Division will conduct direct liaison with DOJ and will represent DA in State and Federal litigation relating to availability and allocation of surface and ground water and the establishment and protection of water rights for Army military installations and activities. This will include litigation in State general adjudications of water rights under the McCarran Amendment, 43 U.S.C. 666, for Army military installations and activities. Such litigation relating solely to COE civil works projects or activities will be handled by attorneys under the technical supervision of the Chief Counsel,